United Nations A/56/315

General Assembly

Distr.: General
24 August 2001

Original: English

Fifty-sixth session
Item 173 of the provisional agenda*
Report of the United Nations Commission on International Trade Law on the work of its thirty-fourth session

Increase in the membership of the United Nations Commission on International Trade Law

Report of the Secretary-General**

Contents

		Paragraphs	Page
I.	Introduction	1	2
II.	Increase in the membership of the Commission and of other relevant organs	2–9	2
III.	Implications	10–12	3
IV.	Brief summary of comments by States	13–14	4
V.	Discussion at the thirty-fourth session of the Commission	15–16	4

* A/56/150.

** The present report is submitted after the 3 July 2001 deadline because the thirty-fourth session of the Commission ended on 13 July 2001 and the final report on that session became available only a few days ago.

01-54672 (E) 250901

I. Introduction

1. In its resolution 55/151 of 12 December 2000, the General Assembly requested the Secretary-General to submit to it at its fifty-sixth session a report on the implications of increasing the membership of the United Nations Commission on International Trade Law and invited States to submit their views on that issue. By a note verbale dated 25 January 2001, the Secretary-General requested States to submit their views by 15 March 2001. The present report has been prepared pursuant to the request of the General Assembly. In order to assist the General Assembly in its consideration of the matter, the present report contains, beyond a discussion of the implications of an increase in the membership of the Commission, background information and a brief summary of comments by States and of the discussion at the thirty-fourth session of the Commission, which was based on a note by the Secretariat (A/CN.9/500).

II. Increase in the membership of the Commission and of other relevant organs

2. When established in 1966, the Commission had 29 member States.[1] That number was determined with a view to ensuring that the Commission would be small enough to be efficient but large enough to be representative of the principal economic and legal systems of the world, as well as of developed and developing countries.[2] In order to ensure equitable representation, the distribution of seats was as follows: eight from Western European and other States; seven from African States; five each from Asian States and Latin American States; and four from Eastern European States.[3]

3. In 1973, the General Assembly considered the question of increasing the membership of the Commission. At that time, the General Assembly confirmed the principle of adequate representation of the various legal and economic systems and of the developing and the developed world, as well as the principle of equitable geographical distribution of seats. After discussion in the Sixth Committee,[4] the General Assembly adopted resolution 3108 (XXVIII) of 12 December 1973, in which it decided to increase the number of members to 36. The distribution of the seven additional seats was as follows: two each from African States and Asian States; and one each from Eastern European States, Latin American States and Western European and other States. As a result, the current distribution of seats in the Commission is as follows: nine each from African States and Western European and other States (9 of 36, i.e. 25 per cent each); seven from Asian States (7 of 36, i.e. 19.4 per cent); six from Latin American States (6 of 36, i.e. 16.6 per cent); and five from Eastern European States (5 of 36, i.e. 13.8 per cent).

4. At its twentieth session, in 1987, the Commission decided to reconsider the matter and requested the Secretariat to prepare a report on the subject.[5] The Secretariat, in a note that was before the Commission at its twenty-first session, in 1988 (A/CN.9/299), recalled the decisions of the General Assembly with respect to the original membership in 1966 and the increased membership in 1973. Taking into account that, since 1977,[6] all States that were not members of the Commission had been invited to participate in sessions of the Commission and its working groups as observers on an equal footing with members, the Secretariat described the issue of the increase of the membership of the Commission as follows (A/CN.9/299, para. 11): "... the primary consequence of membership in the Commission may be that a member State will be more likely than a non-member State to be represented at meetings of the Commission and its working groups. ... Membership may affect both the ministry officials charged with substantive responsibility for international trade law and the financial authorities. In the former case membership may stimulate interest in the subject and better justify the expenditure of human resources to prepare for and to attend meetings. In the latter case membership may better justify the spending of the necessary funds."

5. In its note, the Secretariat confirmed that change in the number of member States would have no financial implications for the United Nations and went on to discuss the historical development of the size of working groups and the advantages that the increase in the size of working groups had. The main advantages cited were that broad participation increased the likelihood that a text would be properly balanced and acceptable to States (A/CN.9/299, para. 26).

6. During the discussion of the note, divergent views were expressed by members of the Commission. One view was that the membership should be increased substantially. In support, it was stated that such an increase of the membership would enhance awareness of the work of the Commission and interest in its achievements. It was also observed that such an increase would further the objectives of the Commission, since member States tended to take a favourable attitude towards acceptance of legal texts emanating from the work of the Commission. It was also pointed out that an increase of the membership could have a beneficial impact on participation since States were more likely to be represented at sessions of the Commission as members than as observers. Moreover, it was observed that the large number of States that had participated as observers and had made valuable contributions indicated that there existed a considerable interest beyond the 36 States that were currently members. The proponents of the increase in membership of the Commission did not propose any definite number since it was for the General Assembly to agree on an equitable and politically acceptable number.[7]

7. Another view was that it was not advisable for the Commission to recommend an increase of its membership. The valuable participation and contributions of non-member States had shown that States with an interest in the work of the Commission had full opportunity for active involvement and appeared to have used that opportunity. The remaining difference between a member State and a non-member State was the domestic question of the likelihood of its being represented at sessions. Moreover, it had not been established that the desire or need for an increase was felt in all regional groups alike and whether an increase would in fact increase active participation by States. Finally, it was felt that it was inopportune to recommend an increase of the membership at a time when the United Nations was undergoing a process of review about possible restructuring.[8] After deliberation, the Commission decided to defer its decision until its twenty-third session, in 1990. However, in 1990, the Commission decided to further postpone consideration of the matter.[9]

8. The membership of the International Law Commission has been increased three times so far: in 1956, from 15 to 21 members; in 1961, from 21 to 25 members; and, in 1981, from 25 to the present 34 members. Reasons cited for those increases included securing an adequate representation of the main forms of civilization and of the principal legal systems of the world (General Assembly resolution 1103 (XI) of 18 December 1956) and the substantial increase in the membership of the United Nations (General Assembly resolutions 1647 (XVI) of 6 November 1961 and 36/39 of 18 November 1981).

9. The Committee on the Peaceful Uses of Outer Space was established in 1958 with 18 members. In 1959, when the Committee became a permanent body of the General Assembly, it had 24 members. The membership of the Committee was last increased in 1994 from 53 to 61 members (General Assembly resolution 49/33 of 9 December 1994). Reasons cited for that increase included the need to take into account the significant increase in the membership of the United Nations, the importance of the subjects under consideration and the actual extent of participation in the Committee.[10] On the recommendation of the Committee,[11] the General Assembly adopted resolution 49/33, by which it gave two of the additional eight seats to each of the four regional groups that had expressed interest in having a greater representation in the Committee. At its forty-fourth session in 2001, the Committee decided to recommend increasing its membership by another four members.[12]

III. Implications

10. All States are invited to attend the meetings of the United Nations Commission on International Trade Law and its working groups. Documents relating to the work of the Commission and its working groups are issued for and distributed to all States. About 50-65 States attend the meetings of the Commission and its working groups and, as a matter of time-honoured practice, all States are invited to participate in the discussion and decision-making process, which is based on the principle of consensus.

11. In view of the relatively low incidence of expert representation from developing countries at sessions of the Commission and particularly of its working groups in recent years, owing in part to inadequate resources to finance the travel of such experts (A/49/739), a trust fund was established for providing travel assistance to developing countries that are members of the Commission. In its resolution 49/55 of 9 December

1994, the General Assembly welcomed the completion of the setting up of the trust fund for the Commission to grant travel assistance to developing countries that were members of the Commission, at their request and in consultation with the Secretary-General. In the same resolution, the Assembly appealed to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund. That appeal is repeated every year in the General Assembly resolution on the report of the Commission. However, contributions to the trust fund have been very limited and, as a result, little assistance is provided to developing countries. Increasing the Commission's membership in itself would not result in any change in this respect, at least, to the extent that contributions to the trust fund are voluntary.

12. According to the Finance and Budget Section of the Division of Administrative and Common Services of the United Nations Office at Vienna, as far as servicing of conferences is concerned, there is little impact of an increase in membership to quantify. No impact is foreseen in interpretation, translation of pre- and post-session documents, and servicing of meetings, as the cost of those services is fixed irrespective of the number of members. As to in-session document reproduction, the impact is not expected to be material enough to be presented as a financial implication. There are no financial implications on the work of the secretariat of the Commission.

IV. Brief summary of comments by States

13. The Secretariat has so far received comments from 22 States (eight from Asian States, six from Latin American States, three from Eastern European States, two from African States and three from Western European and other States). All 22 States support an increase in the membership of the Commission. Reasons cited include: the need to align the membership of the Commission with the increased membership of the United Nations, so as to preserve the representative character of the Commission; the need to make possible the participation of States that, unless they are members, cannot justify the cost of participating in the work of the Commission; and the need to enhance the work of the Commission and to promote the acceptability of the work of the Commission by broadening the spectrum of representation.

14. At the size of the increase, several suggestions were made, ranging from 50 to at least 60 seats. In this regard, all States are mindful of the need to preserve the efficiency of the Commission. As to the allocation of the additional seats, several suggestions were made. In their comments, some States emphasized that consideration should be given to establishing an effective mechanism for providing financial assistance to developing countries that are members of the Commission with respect to the travel costs required for them to attend sessions of the Commission and its working groups.

V. Discussion at the thirty-fourth session of the Commission

15. At its thirty-fourth session, the Commission considered a note by the Secretariat (A/CN.9/500) containing a discussion of the history of the establishment and the past increase in the membership of the Commission and a summary of the comments submitted by Governments. The Commission generally agreed that its membership should be increased.[13] In order to increase actual participation, the suggestion was made that efforts to increase the voluntary contributions to the trust fund set up to assist delegates of developing countries in participating in meetings of the Commission and its working groups should be stepped up. The Commission endorsed that suggestion. As to the size of the increase, differing views were expressed ranging from 48 to 72 member States. The prevailing view was that the increase should not change the proportions of representation of regional groups or the working methods of the Commission. On that basis, the Commission recommended to the General Assembly that its membership should be increased from 36 to 72.

16. The concern was expressed, however, that doubling the membership might be excessive and affect the efficiency of the Commission. In addition, one delegation expressed the view that doubling the number of member States might set a precedent that might be difficult to follow for other organs of the

United Nations. However, it was widely felt that at the current session 74 States were represented and that fact had not affected the efficiency of the Commission, as evidenced by the adoption of two major texts. It was also stated that efficiency would not necessarily be reduced merely because the membership would be doubled. Regional groups were encouraged to conduct consultations in advance of the fifty-sixth session of the General Assembly and to agree on candidates for the new seats. At the close of the discussion, one delegation recalled its reservations regarding the size of the increase and stated that the issue needed to be discussed further in the context of the Sixth Committee of the General Assembly.

Notes

[1] Fourteen members were elected for a period of three years and 15 members were elected for a period of six years. The selection of the members elected within each of the five groups of States that would serve for three or six years was made by the President of the General Assembly by drawing lots. In subsequent elections, all members were to be elected for a period of six years (see General Assembly resolution 2205 (XXI) of 17 December 1966). In its resolution 31/99 of 15 December 1976, the General Assembly decided that membership would expire on the last day prior to the opening of the seventh annual session of the Commission following the date of election.

[2] *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88, document A/6396, paras. 225-229; and *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88, document A/6594, para. 26

[3] *Official Records of the General Assembly, Twenty-first Session, Annexes*, agenda item 88, document A/6594, paras. 28-29.

[4] Ibid., *Twenty-eighth Session, Annexes*, agenda item 92, document A/9408.

[5] Ibid., *Forty-second Session, Supplement No. 17* (A/42/17), para. 344.

[6] See *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17* (A/31/17), para. 74 and General Assembly resolution 31/99, para. 10 (b); see also paragraph 7 (c) of Assembly resolution 38/134 of 19 December 1983.

[7] *Official Records of the General Assembly, Forty-third Session, Supplement No. 17* (A/43/17), paras. 112 and 113.

[8] Ibid., paras. 114 and 115.

[9] Ibid., *Forty-fifth Session, Supplement No. 17* (A/45/17), para. 65

[10] Ibid., *Forty-ninth Session, Supplement No. 33* (A/49/33), paras. 47 and 48.

[11] Ibid., *Supplement No. 20* (A/49/20), para. 156.

[12] Ibid., *Fifty-sixth Session, Supplement No. 20* (A/56/20 and Corr.1), para. 206.

[13] See *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* (A/56/17), paras. 370-375.

United Nations A/56/316

General Assembly

Distr.: General
22 August 2001

Original: English

Fifty-sixth session
Item 124 of the provisional agenda*
Advancement of women

Traditional or customary practices affecting the health of women and girls

Report of the Secretary-General**

Summary

Pursuant to General Assembly resolution 54/133 of 17 December 1999, the present report provides information on the steps taken in several forums of the United Nations and at the regional and national levels to implement the recommendations for action contained in that resolution. The report identifies areas in which further efforts are needed.

Contents

		Paragraphs	*Page*
I.	Introduction	1–4	2
II.	Measures taken at the national and regional levels	5–10	2
III.	Measures taken within the United Nations system	11–38	4
IV.	Conclusions	39–40	10

* A/56/150.

** The report was submitted on 22 August 2001 in order to allow Member States and entities in the United Nations system sufficient time to submit their contributions.

01-51928 (E) 200901

I. Introduction

1. In the preamble to its resolution 54/133 of 17 December 1999, on traditional or customary practices affecting the health of women and girls, the General Assembly reaffirmed its other relevant resolutions and decisions, as well as those of other intergovernmental bodies of the United Nations, and recalled the pronouncements of various United Nations global conferences on the subject, and general recommendation 14 and the relevant paragraphs of general recommendations 19 and 24 of the Committee on the Elimination of Discrimination against Women. It welcomed statements in the Grande Baie (Mauritius) Declaration and Plan of Action of the First Ministerial Conference on Human Rights in Africa of the Organization of African Unity, adopted in 1999, and the Ouagadougou Declaration of the Regional Workshop on the Fight against Female Genital Mutilation in the countries members of the West African Economic and Monetary Union, also adopted in 1999. The Assembly reaffirmed that such traditional or customary practices constituted a definite form of violence against women and girls and a serious form of violation of their human rights, and expressed concern at the continuing large-scale existence of those practices.

2. By the same resolution, the Assembly welcomed the efforts undertaken by United Nations bodies, programmes and organizations, the work carried out by the Special Ambassador for the Elimination of Female Genital Mutilation of the United Nations Population Fund, and the work of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children and other non-governmental and community organizations. It called upon all States to ratify the relevant human rights treaties and include in their reports to the committees established under those instruments information on measures taken to eliminate such practices, and made a number of recommendations for action directed at Member States, intergovernmental bodies, relevant specialized agencies, United Nations bodies, relevant United Nations treaty bodies and non-governmental organizations.

3. Further, the Assembly requested the Secretary-General to report to it at its fifty-sixth session on the implementation of resolution 54/133, with a special focus on recent national and international developments, including examples of national best practices and international cooperation. The present report[1] is submitted in accordance with that request and is based, inter alia, on information received in response to a request of the Secretary-General from Member States,[2] organizations of the United Nations system and civil society organizations.

4. The report describes measures taken at the national and regional levels, as reported by Member States and non-governmental organizations,[3] and measures taken within the United Nations system, including the General Assembly, the Commission on the Status of Women, the Commission on Human Rights, the Subcommission on the Promotion and Protection of Human Rights, the human rights treaty bodies and organizations of the system.

II. Measures taken at the national and regional levels

5. As at 17 August 2000, 17 Member States had responded to the Secretary-General's request for information on the implementation of General Assembly resolution 54/133.

A. Legal measures

6. Some Member States, including Algeria and Iraq, described criminal provisions which addressed bodily harm and violence. Iraq described legislative measures that provided protection against some harmful traditional practices, such as its law banning forced marriages. Other Member States, including China, described legislative measures promoting women's health.

7. Several Member States reported on legal measures which were specifically directed at harmful traditional practices. Burkina Faso reported on its law prohibiting female genital mutilation and indicated that penalties under that law, including imprisonment and fines, had become more severe. Ethiopia reported that eight major harmful traditional practices had been identified in the country, including female genital mutilation, early marriage, and marriage by abduction, and that its Penal Code was being revised to allow for the prosecution of perpetrators of harmful traditional practices. Ethiopia and Maldives reported that their family laws had been amended to establish a minimum

legal age for marriage of 18 years for both girls and boys. Norway indicated that it had enacted legislation prohibiting female genital mutilation, which was reportedly practised by immigrant populations in the country, and that such legislation applied to Norwegian nationals or residents who performed or assisted in the practice, both in or outside Norway. The Netherlands indicated that female genital mutilation had been made an illegal practice in that country, that medical practitioners who had taken part in the practice could be brought before a medical disciplinary board, and that persons could be prosecuted if they had committed any acts in the Netherlands which could be construed as participation in female genital mutilation performed in another country.

B. Policy measures and awareness-raising

8. Several Member States described policy measures aimed at eliminating harmful traditional practices and improving women's health. The Netherlands reported that it took an integrated approach to harmful traditional practices, with emphasis on prevention and education, and indicated that attention would be drawn to the need for draft protocols for medical practitioners, schools, services for the care and protection of children, and the police, aimed at early warning when individuals were thought to be at risk of female genital mutilation and at the identification of cases in which the practice had taken place. Burkina Faso and Norway reported on plans of action against female genital mutilation. Norway noted that it would intensify bilateral cooperation with Governments that worked against female genital mutilation and would seek to establish collaboration with non-governmental organizations. China and the Philippines described a number of institutions and programmes promoting women's health. In the United Kingdom of Great Britain and Northern Ireland, a working group, which included high-level governmental representatives and members of women's organizations, had investigated forced marriage in England and Wales, and had issued a report setting out proposals for addressing the practice. Bahrain reported that female circumcision, or the so-called *khifad*, had almost completely disappeared in that country, and that measures had been taken to combat violence against women and a recommendation had been adopted to conduct a study and maintain annual statistics to determine the prevalence of such violence. Algeria indicated that violence against women had been decreasing, while Kuwait reported that health care was provided to women and children free of charge, and that health centres, the media and non-governmental organizations promoted health education and discouraged harmful traditional practices.

9. Several Member States described awareness-raising campaigns and educational and other programmes on the harmful effects of traditional practices and the promotion of women's health. The Netherlands reported on efforts made to raise awareness and mobilize public opinion with regard to the issue of female genital mutilation, including the convening of an expert meeting in the Netherlands and the showing of documentaries, subsidized by the Ministry of Foreign Affairs, in Africa and Europe. The Netherlands had provided support to programmes and projects in developing countries to combat harmful traditional practices and to national committees and non-governmental organizations lobbying for the abolition of such practices, as well as to campaigns to provide support services and increase the capacity of communities in the Netherlands to eliminate the practice of female genital mutilation. The United Kingdom reported on activities to raise awareness of the harmful effects of female genital mutilation in that country and internationally, including two days of hearings held on female genital mutilation, which involved witnesses from the United Kingdom, other parts of Europe and elsewhere. Burkina Faso reported on the activities of the Comité national de lutte contre la pratique de l'Excision (National Committee against the Practice of Female Genital Mutilation), including awareness-raising, education, lobbying, evaluation and research. Maldives described awareness-raising programmes on harmful traditional practices, which included early marriages, frequent pregnancies, and practices within families whereby women and girls were fed after men and boys. Ethiopia reported on its public awareness campaigns against harmful traditional practices, conducted in collaboration with non-governmental organizations, civic organizations and women's groups. Malaysia indicated that the collection and dissemination of data on harmful traditional practices was being initiated by the Ministry of Women and Family Development, in cooperation with other governmental agencies, non-governmental organizations and universities.

C. Efforts reported by non-governmental organizations

10. It was reported that, in Kenya, a magistrate had ruled in favour of two girls whose father had threatened to circumcise them against their will. The magistrate permanently barred the girls' father from forcing them to undergo such female genital mutilation, stating that the practice was repugnant to morality and justice and violated human rights. Information was also provided on states in Nigeria that had adopted laws banning female genital mutilation. A convention on the elimination of all forms of harmful traditional practices affecting the fundamental rights of women and girl children had been adopted by a symposium for legislators in Addis Ababa in 1999, in which jurists and experts from 15 African countries had participated, and information was provided on a range of meetings, conferences and symposiums organized by the Inter-African Committee on Traditional Practices on the issue of harmful traditional practices, including a youth forum held in Addis Ababa in 2000, which was attended by 70 young people from more than 15 African countries.

III. Measures taken within the United Nations system

A. General Assembly

11. At its fifty-fourth and fifty-fifth sessions, the General Assembly adopted a number of resolutions referring to harmful traditional practices, including resolutions 54/148 of 17 December 1999 and 55/78 of 4 December 2000, on the girl child, and resolution 55/68 of 4 December 2000, on the elimination of all forms of violence against women, including crimes identified in the outcome document of the twenty-third special session of the Assembly, contained in the annex to its resolution S-23/3 of 10 June 2000. By resolution 55/66 of 4 December 2000, on working towards the elimination of crimes against women committed in the name of honour, the Assembly expressed its concern at the fact that women continued to be victims of various forms of violence and at the continuing occurrence in all regions of the world of such violence, including crimes against women committed in the name of honour, and also expressed its concern that some perpetrators assumed that they had some justification for committing such crimes. It called upon States to intensify efforts to prevent and eliminate such crimes and to encourage, support and implement measures and programmes aimed at increasing the knowledge and understanding of the causes and consequences of these crimes, among those responsible for enforcing the law and implementing policies, such as police personnel, judicial workers and health personnel.

12. In the further actions and initiatives to implement the Beijing Declaration[4] and Platform for Action,[5] contained in the above-mentioned outcome document, the Assembly recommended, inter alia, that Governments develop, adopt and fully implement laws and other measures, as appropriate, such as policies and educational programmes, to eradicate harmful customary or traditional practices, including female genital mutilation, early and forced marriage and so-called honour crimes, which are violations of the human rights of women and girls, and intensify efforts, in cooperation with local women's groups, to raise collective and individual awareness on how such harmful traditional or customary practices violate women's human rights (resolution S-23/3, annex, para. 69 (e)). It also recommended that Governments, regional and international organizations, including the United Nations system, and international financial institutions and other actors, as appropriate, increase cooperation, policy responses, effective implementation of national legislation and other protective and preventive measures aimed at the elimination of violence against women and girls, including female infanticide, crimes committed in the name of honour, crimes committed in the name of passion, dowry-related violence and deaths, acid attacks and harmful traditional or customary practices, such as female genital mutilation, early and forced marriages (ibid., para. 96 (a)). The Assembly urged those bodies to encourage, through the media and other means, a high awareness of the harmful effects of certain traditional or customary practices affecting the health of women, some of which increase their vulnerability to HIV/AIDS and other sexually transmitted infections, and to intensify efforts to eliminate such practices (ibid., para. 98 (d)).

13. By resolution S-26/2 of 27 June 2001, the Assembly adopted a Declaration of Commitment on HIV/AIDS, setting out key actions to address the HIV/AIDS crisis. Action to be taken with regard to HIV/AIDS and human rights included, by 2005,

ensuring development and accelerated implementation of national strategies for women's empowerment, promotion and protection of women's full enjoyment of all human rights and reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices.

B. Commission on the Status of Women

14. At its forty-fifth session in 2001, the Commission on the Status of Women adopted draft agreed conclusions on women, the girl child and HIV/AIDS,[6] for adoption by the Economic and Social Council. It was recognized therein that negative and harmful traditional and customary practices that subordinate women in the household, community and society rendered women especially vulnerable to HIV and sexually transmitted infection. It was recommended that Governments, the United Nations system and civil society strengthen concrete measures to eliminate all forms of violence against women and girls, which aggravate the conditions fostering the spread of HIV/AIDS, through, inter alia, the enactment and enforcement of laws, as well as public campaigns to combat violence against women and girls. It was also recommended that Governments, the United Nations system and civil society, including traditional, community and religious leaders, work together to identify the customary and traditional practices that adversely influence gender relations, and to eliminate those practices that increase the vulnerability of women and girls to HIV/AIDS.

C. Commission on Human Rights

15. The Commission on Human Rights, in its resolution 2001/49 of 24 April 2001,[7] on the elimination of violence against women, affirmed that the term "violence against women" meant any act of gender-based violence that resulted in, or was likely to result in, physical, sexual or psychological harm or suffering to women, including, among others, crimes committed in the name of honour, traditional practices harmful to women, including female genital mutilation, and forced marriages. It strongly condemned physical, sexual and psychological violence occurring in the family, including, inter alia, dowry-related violence, female infanticide, female genital mutilation and other traditional practices harmful to women, and called upon States to condemn violence against women and not invoke custom, tradition or practices in the name of religion to avoid their obligations to eliminate such violence. The Commission had adopted a similar resolution at its fifty-sixth session in 2000.[8]

16. By its resolution 2001/75 of 25 April 2001,[7] on rights of the child, the Commission called upon all States to take all necessary measures to eliminate all forms of discrimination against girls, including all forms of violence, harmful traditional or customary practices, including female genital mutilation, the root causes of son preference, marriages without free and full consent of the intending spouses and early marriages, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls. The Commission had adopted a similar resolution at its fifty-sixth session in 2000.[9]

17. In its decision 2001/107 of 24 April 2001,[10] the Commission decided to approve the decision of the Subcommission on the Promotion and Protection of Human Rights in its resolution 2000/10 that the mandate of the Special Rapporteur on traditional practices affecting the health of women and the girl child be extended for two more years.

1. Subcommission on the Promotion and Protection of Human Rights

18. At its fifty-third session in 2001, the Subcommission on the Promotion and Protection of Human Rights considered traditional practices affecting the health of women and the girl child, and the fifth report of the Special Rapporteur on traditional practices affecting the health of women and the girl child. In its resolution 2001/13 of 15 August 2001, on traditional practices affecting the health of women and the girl child, the Subcommission appealed to all States concerned to intensify efforts to develop awareness of, and mobilize national public opinion concerning, the harmful effects of all forms of harmful traditional practices, in particular through education, information and training, in order to achieve the total eradication of those practices. It also requested all non-governmental organizations dealing with women's issues to continue to devote part of their activities to the study of the various harmful traditional practices and ways and

means of eradicating them, and appealed to the international community to provide material, technical and financial support to the non-governmental organizations and groups working with dedication to achieve their total elimination. Further, the Subcommission reiterated its proposal that three seminars be held in Africa, Asia and Europe to review the progress achieved since 1985, and ways and means of overcoming obstacles encountered in the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1), appealed for funding for those activities, and requested the United Nations High Commissioner for Human Rights to assist the mandate by raising funds for the organization of the seminars. The Subcommission had adopted a similar resolution at its fifty-second session in 2000 (see E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, sect. II.A, resolution 2000/10).

Special Rapporteur of the Subcommission on the Promotion and Protection of Human Rights on traditional practices affecting the health of women and the girl child

19. The fourth and fifth reports of the Special Rapporteur of the Subcommission on the situation regarding the elimination of traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/2000/17 and E/CN.4/Sub.2/2001/27) provided a summary of action taken, at the national and international levels, to combat harmful traditional practices.

20. In her fifth report, the Special Rapporteur reported on measures taken in Austria, Belgium, France, the Netherlands, New Zealand and Sweden to combat female genital mutilation practised by immigrant communities, and on an initiative in Japan to support campaigns to eradicate the practice in African countries. She reiterated an appeal to countries with large inflows of immigrants to develop, and put into effect, programmes to combat harmful traditional practices in accordance with national laws and international standards, but always with due respect for the cultural values of the immigrant populations. In her fourth report, the Special Rapporteur welcomed initiatives taken by European countries with regard to female genital mutilation practised by immigrant communities, and indicated that, while she encouraged all projects, measures and initiatives aimed at informing, training and educating, she considered that due emphasis should be placed on the importance of the cultural and social heritage of the groups in which such practices occurred, and therefore policies should give consideration to that cultural aspect and emphasize that cultural practices could be changed without detracting from the cultural values of societies.

21. In the fifth report, the Special Rapporteur indicated that the practice of female genital mutilation had decreased in Benin, and reported on her visit to Mauritania and efforts taken to eradicate harmful traditional practices in that country. The Special Rapporteur noted a number of regional and international initiatives, including a symposium for religious and traditional leaders, held at Arusha, United Republic of Tanzania, from 20 to 22 August 2000, at which the Arusha Declaration on Harmful Traditional Practices was issued, and highlighted the Convention on the Elimination of All Forms of Harmful Traditional Practices affecting the Fundamental Rights of Women and Girl Children, which had been adopted by the second symposium for legislators, held at Addis Ababa in 1999. In her fourth report, the Special Rapporteur welcomed legislative measures that had been taken to combat female genital mutilation in Burkina Faso, Côte d'Ivoire, Djibouti, Egypt, Ghana, Guinea, Senegal, Togo and the United Republic of Tanzania, and indicated that key features of the initiatives taken by those countries included training, information, education and awareness-building among the communities concerned and the persons working with those communities. She noted that the organizations working in the countries concerned were becoming increasingly aware of the importance and usefulness of concerted action and the exchange of information and experience.

22. In both reports, the Special Rapporteur reported on national and international initiatives with regard to harmful traditional practices, other than female genital mutilation. In her fifth report, she emphasized that, while the practice of female genital mutilation was arousing opposition, other practices, just as harmful and widespread, were still maintained, such as crimes of honour, early marriages and early pregnancy, son preference, dowries and violence in the family. She noted that measures taken by Guatemala to eliminate harmful traditional practices, such as son preference, early marriage and violence against women and girls,

had had a positive impact. In her fourth report, she indicated that many harmful traditional practices existed and were not being dealt with as they should be, and underlined that efforts and vigilance must not be relaxed, especially as there was a need to combat not just laws, but beliefs rooted in centuries of patriarchal authority and male domination, drawing strength from discrimination against women, ignorance and indifference towards women's fate.

2. Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences

23. The Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, submitted a report on trafficking in women, women's migration and violence against women to the Commission on Human Rights at its fifty-sixth session (E/CN.4/2000/68). In that report, the Special Rapporteur noted that overt forms of violence, including forced marriage, were perpetuated against women who sought to exercise their freedom of movement and that discriminatory policies and practices of the Governments, particularly those that sought to curb women's movement, helped to create a climate in which such violations were officially tolerated, if not encouraged or in some cases perpetrated by State actors. The Special Rapporteur noted that the preference for male children and the culture of male privilege deprived girls and women of access to basic and higher education and, consequently, illiteracy rates among women remained high. In addition, certain religious and customary practices, reinforced by governmental policies, further entrenched and validated discrimination and perpetuated the cycle of oppression of women.

24. In an addendum to that report, on economic and social policy and its impact on violence against women (E/CN.4/2000/68/Add.5), the Special Rapporteur pointed out that women's low economic status had serious consequences for their social and legal status, noting that female infanticide, widow murder, neglect of girl children and dowry-deaths were related to the economic potential of women. In a report on her mission to Bangladesh, Nepal and India on the issue of trafficking of women and girls (E/CN.4/2001/73/Add.2), the Special Rapporteur noted that, while poverty was a major factor contributing to trafficking, traditional practices in certain villages and among certain castes whereby young girls were sold into concubinage for feudal lords or into prostitution, were also factors.

3. Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions

25. In her report to the Commission on Human Rights at its fifty-sixth session (E/CN.4/2000/3), the Special Rapporteur on extrajudicial, summary or arbitrary executions included, as an issue of special concern, traditional practices affecting the right to life, namely, the practice of "honour killings" of women. She welcomed the initiatives taken by the Governments of Jordan and Turkey with regard to such killings, and urged Governments to make legislative changes to ensure that cases of such killings receive no favourable discriminatory treatment under the law.

26. In her report to the Commission at its fifty-seventh session (E/CN.4/2001/9) the Special Rapporteur also considered the issue of such killings. She noted that some Governments had indicated their disapproval of the practice and that some others had publicly condemned it, and recalled that a number of renowned Islamic leaders and scholars had also publicly expressed their disapproval in this context. The Special Rapporteur reiterated her request to Governments to make legislative changes to ensure that such killings receive no discriminatory treatment under the law and to sensitize their judiciary to gender issues.

4. Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression

27. In his report on his visit to the Sudan (E/CN.4/2000/63/Add.1), the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression indicated that his attention had been drawn to the fact that the Sudanese Government had banned female circumcision and permitted meetings, including a conference in April 1999, to be held on the topic. The Special Rapporteur drew attention to the Sudan National Committee on Traditional Practices, whose objective was to eradicate harmful practices endangering the health of women and children, in particular female genital mutilation, which was still performed on 82 per cent of women, and emphasized

that one of the merits of such an organization was to publicize the danger of that type of practice, thereby leading to an open debate in the media.

D. Human rights treaty bodies

28. The human rights treaty bodies have continued to address harmful traditional or customary practices in their general comments and recommendations, their review of reports of the States parties including the list of issues and questions sent to States parties, their constructive dialogue with States parties, and their concluding observations and comments on the reports.

29. The Committee on Economic, Social and Cultural Rights, at its twenty-second session in 2000, adopted general comment 14, concerning article 12 of the Covenant on Economic, Social and Cultural Rights, on the right to the highest attainable standard of health (see E/C.12/2000/4). In general comment 14, the Committee emphasized that there was a need to adopt effective and appropriate measures to abolish harmful traditional practices affecting the health of children, particularly girls, including early marriage, female genital mutilation, preferential feeding and care of male children. It stated that States parties were obliged, inter alia, to ensure that harmful social or traditional practices did not interfere with access to pre- and post-natal care and family planning, to prevent third parties from coercing women to undergo traditional practices, for example, female genital mutilation, and to disseminate appropriate information relating to harmful traditional practices.

30. At its twenty-second session, in its concluding comments on the initial and second and third periodic reports of the Democratic Republic of the Congo, the Committee on the Elimination of Discrimination against Women expressed its concern at the persistence of traditional customs and practices, in violation of women's fundamental rights, such as dowry, levirate, polygamy, forced marriage and female genital mutilation.[11] At its twenty-third session, the Committee, in its concluding comments on the initial report of Cameroon, noted with concern that, despite some efforts, there was no holistic approach to the prevention and elimination of the various forms of violence against women and girls, including female genital mutilation.[12] At its twenty-second session, in its concluding comments on the second and third periodic reports of Burkina Faso, the Committee noted with satisfaction a provision in the penal code which prohibited and punished female genital mutilation.[13] At its twenty-fifth session, in its concluding comments on the initial and second and third periodic reports of Guinea, the Committee noted with concern that despite prohibitions in statutory law, there was wide social acceptance, and lack of sanctions, for practices such as female genital mutilation, polygamy and forced marriages, including levirate and sororate.[14]

31. While welcoming laws prohibiting female genital mutilation in Côte d'Ivoire, Djibouti and the United Republic of Tanzania, the Committee on the Rights of the Child, in its concluding observations at its twenty-second to twenty-seventh sessions, expressed concern at the continued practice of female genital mutilation in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Djibouti, Ethiopia, Lesotho, Mali, Sierra Leone, South Africa and the United Republic of Tanzania.[15] Concern was also expressed at the practices of early and forced marriages in Ethiopia and Mali, and virginity testing in South Africa. At its twenty-second session, the Committee, in its concluding observations on the initial report of India, noted the persistence of harmful traditional practices towards girls, including female infanticide, selective abortions and forced marriages (see CRC/C/15/Add.115).

32. In its concluding observations on the initial report of Egypt, the Committee on Economic, Social and Cultural Rights noted with concern that, although the Government had criminalized female genital mutilation outside of hospitals by persons without a medical qualification, that measure did not make the practice of female genital mutilation by medical practitioners a criminal offence (see E/C.12/1/Add.44). With regard to Togo, the Committee noted that the persistence of female genital mutilation was a serious problem (see E/C.12/1/Add.61).

33. At its sixty-seventh session, in its concluding observations on the third periodic report of Cameroon, the Human Rights Committee expressed concern that there was no specific law prohibiting female genital mutilation and that the practice continued in certain areas of the country (see CCPR/C/79/Add.116). At its seventy-second session, in its concluding observations on the third periodic report submitted by the Netherlands, the Committee expressed concern that a well-founded fear of genital mutilation or other traditional practices that infringed the physical

integrity or health of women did not always result in favourable asylum decisions.[16]

34. Among the recommendations of human rights treaty bodies with regard to the elimination of harmful traditional and customary practices were the adoption and effective implementation of legislation prohibiting such practices, collaboration with other States to identify good practices, coordination with civil society, and organization of awareness-raising and sensitization campaigns and of education programmes, including alternative career training programmes for traditional practitioners.

E. Organizations of the United Nations system[17]

1. United Nations

United Nations Population Fund

35. During the reporting period, the United Nations Population Fund (UNFPA) continued to address harmful traditional practices as violations of women's human rights, especially in connection with their reproductive health. Such practices have been identified as a priority area in many of the country programmes of the UNFPA. UNFPA supported advocacy efforts aimed at law and policy reform, backed up with information, education and communication on gender equality issues and violence against women. The activities of UNFPA have included support for various initiatives, at the country, regional and international levels, aimed at the elimination of female genital mutilation, including the work of the UNFPA Goodwill Ambassador for the Elimination of Female Genital Mutilation; the compilation of a manual for health-care providers on gender-based violence; and the gathering of data on gender-based violence, including harmful traditional practices, in Africa.

United Nations Children's Fund

36. Programming at the United Nations Children's Fund (UNICEF) has adopted a rights-based approach, with the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, as its framework. The main focus of its strategy for the elimination of female genital mutilation has been advocacy, and collaboration with international non-governmental organizations and Governments. It has provided technical and funding support to local non-governmental organizations to undertake participatory community-based action for the elimination of female genital mutilation. UNICEF has supported initiatives at the regional and country levels for the elimination of female genital mutilation in East and southern Africa, Burkina Faso, Egypt, Eritrea, Senegal, Somalia and the Sudan. It has also supported a number of programmes and studies to address other harmful traditional practices, in particular early marriage, in South Asia, East, West and southern Africa, Bangladesh, Ethiopia, the Gambia and Malawi. During the twenty-third special session of the General Assembly, UNICEF organized a high-level special event to consolidate efforts to end female genital mutilation, and a workshop on the issue of early marriage.

United Nations Development Fund for Women

37. The regional campaigns led by the United Nations Development Fund for Women for the elimination of violence against women in South Asia, Western Asia and Africa have addressed harmful traditional practices within the context of women's human rights. During the period under review, the Fund supported a number of projects to combat so-called honour crimes and female genital mutilation, focusing on research, advocacy aimed at law and policy reform, and awareness-raising.

2. World Health Organization

38. During 2001, the World Health Organization (WHO) published a set of training materials (teacher's guide, student manual and policy guidelines) to integrate the issue of female genital mutilation into the curricula of nurses and midwives, filling gaps in professional training and building the capacity of health personnel to prevent and manage health complications. A report of a WHO technical meeting on the management of pregnancy, childbirth and the postpartum period in the presence of female genital mutilation, and a report highlighting progress and activities addressing female genital mutilation and other harmful traditional practices were also issued in 2001. In 1999, WHO issued the study entitled "Female genital mutilation, programmes to date: what works and what doesn't" (WHO/CHS/WMH/99.5), which

contained a review of programmes addressing female genital mutilation.

IV. Conclusions

39. Member States have indicated that traditional or customary practices that affect the health of women and girls, in particular female genital mutilation, continue to be addressed through the adoption of legal and policy measures aimed at the elimination of such practices and the promotion of women's health. Educational programmes and awareness-raising campaigns have also been conducted. The importance of collaboration with non-governmental organizations was emphasized. Significant regional initiatives have also taken place, in particular the adoption of the Convention on the Elimination of All Forms of Harmful Traditional Practices affecting the Fundamental Rights of Women and Girl Children. Also of significance was the decision taken by a Kenyan court, which protected two girls from being forced to undergo female genital mutilation.

40. Concrete measures aimed at the elimination of all forms of harmful traditional practices need to be strengthened. The adoption and enforcement of legal measures prohibiting such practices, and the development of comprehensive national plans and public information campaigns remained crucial. Educational and training efforts should be reinforced to include behavioural change approaches, reach women and men in all communities engaged in such practices, and address the underlying values that support such practices. Such efforts should involve, among others, community and religious leaders, educators, medical practitioners, the media and those responsible for enforcing the laws and implementing policies, such as the police and judicial personnel. The sensitization of, and alternative career training programmes for, traditional practitioners, as well as the pursuit of alternatives where harmful practices constitute a ritual ceremony or rite of passage, should also be intensified.

Notes

[1] The present report is the third submitted to the General Assembly on the issue of traditional or customary practices affecting the health of women and girls. For the two previous reports, see A/54/341 and A/53/354.

[2] Replies were received from Algeria, Antigua and Barbuda, Bahrain, Burkina Faso, China, Ethiopia, Georgia, Iraq, Kuwait, Malaysia, Maldives, Morocco, the Netherlands, Norway, the Philippines, Thailand and the United Kingdom of Great Britain and Northern Ireland.

[3] Two non-governmental organizations, the Inter-African Committee on Traditional Practices, and Equality Now, submitted information. Many non-governmental organizations have continued to address harmful traditional practices.

[4] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex I.

[5] Ibid., annex II.

[6] See *Official Records of the Economic and Social Council, 2001, Supplement No. 7* (E/2001/27), chap. I, sect. A, draft resolution IV.

[7] See ibid., *Supplement No. 3* (E/2001/23), chap. II, sect. A.

[8] Ibid., 2000, *Supplement No. 3* and corrigendum (E/2000/23 and Corr.1), chap. II, sect. A, resolution 2000/45.

[9] Ibid., resolution 2000/85.

[10] Ibid., *2001, Supplement No. 3* (E/2001/23), chap. II, sect. B.

[11] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 38* (A/55/38), part one, para. 215.

[12] Ibid., part two, para. 49.

[13] Ibid., part one, para. 262.

[14] See ibid., *Fifty-sixth Session, Supplement No. 38* (A/56/38), part two.

[15] See, respectively, CRC/C/15/Add.138, CRC/C/15/Add.155, CRC/C/15/Add.153, CRC/C/15/Add.131, CRC/C/15/Add.144, CRC/C/15/Add.147, CRC/C/15/Add.113, CRC/C/15/Add.116, CRC/C/15/Add.122 and CRC/C/15/Add.156.

[16] See United Nations human rights web site <www.unhchr.ch>, treaty bodies database, document CCPR/CO/72/NET.

[17] Replies were received from the Economic and Social Commission for Western Asia, the Office of the United Nations High Commissioner for Human Rights, the United Nations Population Fund, the United Nations Children's Fund, the United Nations Development Fund for Women and the World Health Organization.